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**NLRB IS SUCCESSFULLY ENFORCING LABOR
LAW, CHAIRMAN BATTISTA TELLS CONGRESS**

Testifying before a joint House-Senate hearing, National Labor Relations Board Chairman Robert J. Battista told Congress the Agency is successfully carrying out its statutory mission to administer the nation's primary labor law as amended and interpreted by the reviewing courts.

At a hearing held by two labor subcommittees on December 13, Chairman Battista defended the Agency's performance during his five-year term, which ends on December 16. "The polemics of certain groups against recent decisions of the Board," he said, "are nothing more than special-interest attacks designed to gain support for their position in the coming election cycle." Chairman Battista stated further, regarding the number and timing of recent decisions:

The hue and cry is that the 'Bush majority' rushed out 61 decisions in September in a 'massive assault on workers' before the President's term ends. That is just not so. Anyone with a basic knowledge of Board case processing knows that September, the last month of the fiscal year, is the busiest case production time. The Board actually issued 70 decisions in September, after a bi-partisan effort by all five Members to issue the oldest cases. The equivalent numbers for September issuances in the prior four years are 119, 54, 114, and 105. As for the substance of what the Board held, the decisions speak for themselves. It should be noted, however, that in the majority of unfair labor practice cases issued in September, the Board found one or more violations of the Act by the employer involved.

"In their criticism of the Board," the Chairman stated, "our critics lose sight of the fact that the statute was amended in 1947 by the Taft-Hartley Act to give employees the equal right to refrain from union activities and representation, and to protect employees from not only employer interference but also union misconduct." He added:

The Board is obligated to enforce the law as enacted by Congress despite what any affected party may wish for – a return to 1935 or to some future legislative result. The statute was not intended to benefit unions or employers.

Rather, the rights granted by the statute belong only to employees – whether unionized or not. Once again, the fundamental principle of the Act is to provide for employee free choice, allowing employees to decide for themselves whether or not to be represented by a union or otherwise to act concertedly in dealing with their employer... The law is neutral and so is this Agency.

Among the NLRB's accomplishments made during Chairman Battista's tenure that are cited in his congressional statement:

- In the past five fiscal years, the NLRB has recovered a total of \$604 million on behalf of employees as backpay or reimbursement of fees, dues, and fines, with 13,279 employees offered reinstatement. In FY 2007 alone, the NLRB collected \$110,388,806 in backpay, and 2,456 employees were offered reinstatement.
- In FY 2007, the NLRB held 1,559 representation elections, of which unions won 54.3%. The overwhelming majority of those elections (93%) were held within 56 days.
- Over the same period, 66% of the 22,164 unfair labor practice charges were investigated and resolved by the NLRB within 120 days of the docketing of the charge.
- Of charges found to have merit, some 90% are settled prior to the issuance of a complaint. In FY 2007, the median time to issue complaints was 98 days.
- Complaints that Regional Directors do issue in meritorious cases go to hearings before NLRB Administrative Law Judges. Their decisions can be appealed to the Board in Washington. The Board's decisions are subject to review and enforcement by the U.S. Courts of Appeals. If a Board decision is balanced and well reasoned, generally it gets enforced. In FY 2007, Board decisions were enforced by the courts in whole 86.6% of the time, and in whole or part 97% of the time – the highest enforcement rates in the Agency's history. From December 2002, when Chairman Battista assumed office, through September 30, 2007, Board decisions have been enforced in whole or in part 87.8% of the time – compared to 70.8% for the previous Board.
- Since 1990, the cases pending before the Board in Washington have represented only 1% to 2% of cases filed with the Agency nationwide. Chairman Battista asserted: "By focusing only on this small percentage of Board decisions, some critics give the impression that the delay inherent in a fully-litigated case is the norm. This is not true. Overall the NLRB's case processing record is impressive."

- As for productivity, the Board has issued almost 500 cases per year over five years. As of the end of FY 2007, the median number of days an unfair labor practice case was pending at the Board was 181 days; for representation cases, the median was 88 days. Also, the Board reduced the backlog to 207 cases – a reduction of some 66.5% over five years, resulting in the lowest inventory in over 30 years. “Granted, a lower intake of cases helped us in this effort, but overall the Board did well bringing the caseload down to a respectable working inventory,” according to the NLRB Chairman.
- In fiscal 2007, the Board issued decisions in 48 of its oldest 50 cases.

The National Labor Relations Board is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act, as amended, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers, and to engage in other protected concerted activity with or without a union, or to refrain from all such activity. Under the Act, the NLRB has two principal functions:

- to conduct secret-ballot elections among employees to determine whether or not the employees wish to be represented by a union; and
- to prevent and remedy statutorily defined unfair labor practices by employers and unions.

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